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MONTANA LEGISLATIVE HISTORY

Chapter 240 19 89

Bill H _____ S 145 Original bill & history ___C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Mar 10	✓ C	Hearing Date(s)	Jan 25	✓ C
		C		Jan 31	✓ C
		C			C
		C			C
Date Out	Mar 10	✓ C		Jan 31	✓ C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

1/30	HEARING		
2/06	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/08	2ND READING PASSED	25	23
2/10	3RD READING PASSED	28	21
	TRANSMITTED TO HOUSE		
2/21	REFERRED TO HUMAN SERVICES & AGING		
3/06	HEARING		
3/15	TABLED IN COMMITTEE		
3/27	MOTION FAILED TO TAKE FROM COMMITTEE (MOTION REQUIRED THREE-FIFTHS VOTE OF APPROVAL IN ORDER TO PASS)	49	42
	DIED IN COMMITTEE		

SB 144 INTRODUCED BY JENKINS, ET AL.
REVISE SYSTEM FOR DRAWING SPECIAL ELK PERMITS

1/16	INTRODUCED		
1/16	REFERRED TO FISH & GAME		
1/17	FISCAL NOTE REQUESTED		
1/23	FISCAL NOTE RECEIVED		
1/24	FISCAL NOTE PRINTED		
1/24	HEARING		
1/30	COMMITTEE REPORT--BILL NOT PASSED		
1/30	ADVERSE COMMITTEE REPORT ADOPTED	44	4

SB 145 INTRODUCED BY ECK, ET AL.
PROVIDE THAT VETERANS' OR SOCIAL SECURITY BENEFITS NOT BE EXEMPTED FROM EXECUTION FOR CHILD SUPPORT OR CHILD SUPPORT-RELATED MAINTENANCE

1/16	INTRODUCED		
1/16	REFERRED TO JUDICIARY		
1/25	HEARING		
2/01	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/03	2ND READING PASSED	50	0
2/06	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
2/21	REFERRED TO JUDICIARY		
3/10	HEARING		
3/10	COMMITTEE REPORT--BILL CONCURRED		
3/11	2ND READING CONCURRED	89	0
3/13	3RD READING CONCURRED	92	4
	RETURNED TO SENATE		
3/16	SIGNED BY PRESIDENT		
3/16	SIGNED BY SPEAKER		
3/17	TRANSMITTED TO GOVERNOR		
3/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 240 EFFECTIVE DATE: 10/01/89		

SB 146 INTRODUCED BY HAGER
AUTHORIZE DEPARTMENT OF FAMILY SERVICES TO CONTRACT TO CONDUCT INVESTIGATIONS CONCERNING PARENTAL ADOPTIVE PLACEMENTS AND TO CHARGE A FEE
BY REQUEST OF DEPARTMENT OF FAMILY SERVICES

1/16	INTRODUCED		
1/16	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		

Presentation and Opening Statement by Sponsor: Senator Eck, District 40, opened by stating that this was a child support bill which originated with an attorney in Bozeman. She said the assumption was that, if a obligor had assets or income of any kind that were available, child support should be given. She continued by saying that this bill provided the veterans and social security benefits to become available for child support. Senator Eck hoped that the committee would pass SB 145.

List of Testifying Proponents and What Group they Represent:

Brenda Nordlund, Montana Women's Lobby
John McRae,

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Brenda Nordlund, Montana Women's Lobby, stated that this bill was consistent with their agenda in improving child support enforcement and revising child support. In the past the veterans and social security benefits were held outside execution laws. She asked for support of SB 145.

Opponents:

None

Questions From Committee Members: Senator Mazurek asked if the federal law didn't specifically prohibit use of social security and veterans from attachment and, if so was there anything the state could do to change that. Brenda Nordlund replied that there might be a problem with social security because it is derived from something other than an income source. She asked to defer the question to John McRae, who commented that it was available at the federal level if the benefits were income derived. Social Security and veteran benefits, which are based on the previous earnings of the individual, are subject to executions except those that are part of a disability and are not income based.

Senator Mazurek asked if the bill wouldn't have to specifically address that issue. John McRae felt that it wasn't necessary.

Senator Mazurek asked if the federal statute addressed maintenance where custodial parents were concerned. John McRae stated that the federal government had combined maintenance and child support. Where family support was necessary, the seizure of those funds would be allowed.

Closing by Sponsor: Senator Eck closed by stating that she had discussed the issue with attorney in Bozeman named McKinley Anderson. She had also looked at the worksheets used in determining the amount of support each parent was expected to contribute, and she felt they were worked out in a fair way. Determination of fiscal responsibility should consider all assets, she felt, even when looking at disabilities. She said she found no objections when she inquired of the people representing the veterans. She stated that Representative Spaeth, an attorney and veteran, carried the bill in the House, and she urged support.

HEARING ON SENATE BILL 172

Presentation and Opening Statement by Sponsor: Senator Pinsoneault of St. Ignatius, District 27, opened by stating that this bill was brought with little pride. He said he was not anti-sex, but he thought there was a time and place under appropriate circumstances for this type of conduct for adult males and females. This bill arose from a case in Missoula County, he said. An attorney, Anthony Keist, had a female client who came to him to attain his services on a debt collection. She did not have the funds for attorney fees. The attorney suggested she might have sex with him in exchange for the fees. In addition, he also suggested that she might procure a few others that might have sex for money. Both females arrived at the motel on the prearranged date, he said, but Mr Keist did not have any other perspective males who would pay for sex. After the attorney and client were alone in the room, he offered to exchange sex for $50. At that point she said she had to go down to lock her car. Unknown to Mr. Keist, there was a sheriff from the department secreted away in the closet with a video camera and voice recorder, said Senator Pinsoneault. Mr. Keist was arrested on the spot, according to Senator Pinsoneault. Mr. Keist plead guilty to avoid prosecution and a $500 fine. He explained that Montana's sexual event statutes provide punishment for these types of crime; however, in these particular instances they only amounted to a misdemeanor. If he

amendment #7. In Version 1 which was recommended by the Attorney General's office stated that the board must recommend clemency or that it be denied. Version 2 recommended by Mr. Keegan would like three possibilities: The board could recommend granting clemency, could recommend denying clemency or make no recommendation at all. Senator Pinsoneault stated that he supported the Version 1 amendment. He felt that the final decision should rest with the Governor.

Amendments and Votes: Senator Pinsoneault moved to adopt Version I amendments. The motion CARRIED UNANIMOUSLY.

Recommendation and Vote: Senator Pinsoneault moved that SB 107 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SENATE BILL 145

Discussion: Senator Crippen asked for Valencia to clarify the statement that the federal law could not prohibit attachment against Social Security or veterans benefits. Valencia referred to subsection (b) and (c), saying that there is reference to subsection 2 which allows execution on these types of benefits. She asked if he wanted an amendment to clarify that only income-based veteran benefits and social security benefits that could be attached. She stated that she could have it prepared by Friday.

EXECUTIVE ACTION ON SENATE BILL 172

Discussion: Senator Pinsoneault said he had noted an interest to include other professionals. But, he felt that there was a difference between professionals who share most intimately thoughts and other professionals in other categories. He said the bill attempted to be fair and reasonable.

Senator Mazurek stated that a lot of professionals share intimate relationships and would like to be included. He also had other problems he felt needed clarification. After further discussion it was decided to take action at a later date.

EXECUTIVE ACTION ON SENATE BILL 177

ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date Jan. 25, 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS			✓
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

DISPOSITION OF SENATE BILL 145

Discussion: Valencia Lane, Legislative Staff Attorney, stated that there were two sets of amendments. The first set of amendments (Exhibit 6) was prepared at the request of the committee. She pointed out they were to amend the Title to clarify that "maintenance" was addressed in the bill. She then stated that the next two amendments change page 2, line 5-8, to address the concern that the benefits be only those based upon remuneration of employment. It states clearly that the Disability related benefits were not addressed by this bill. She also explained that the definition in 42 U.S.C. 662 (f) applied to both Veteran and Social Security benefits. (See Motion A below.)

Valencia Lane explained that the second set of amendments (Exhibit 7) were brought to her by Senator Eck at the request of Judge Michael Keating, and would apply to a couple that is separated but not divorced.

Senator Yellowtail stated that the bill was adequately appropriate to child support. He felt maintenance was an entirely different matter, and deserved separate consideration.

Senator Jenkins asked Valencia Lane to define what the difference was between support maintenance. She replied that support is money owed, usually under a court order for the support of a child, whereas maintenance went to support the spouse or former spouse. She stated that the bill was worded to state "child support maintenance" only.

Senator Jenkins asked if the maintenance could be health insurance for the child and Valencia Lane stated that the maintenance was a set figure, which didn't include insurance or clothing.

Amendments and Votes:
Motion A. Senator Mazurek MOVED the Exhibit 6 amendments to SB 145. The MOTION CARRIED UNANIMOUSLY.

Senator Yellowtail MOVED a substitute motion to amend the Title to strike "or child support related maintenance"; further on page 2, line 8, strike ":"; line 9, sub (a), strike insert line 10,11, and 12. The motion FAILED with Senators Beck, Mazurek, Yellowtail and Crippen voting YES.

Senator Halligan moved the Exhibit 7 amendments for SB 145. The motion CARRIED UNANIMOUSLY.

Recommendation and Vote: Senator Halligan moved SB 145 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY.

DISPOSITION OF SENATE BILL 172

Discussion: Senator Mazurek asked if this type of conduct was already illegal. Senator Pinsoneault replied that this type of conduct would be a misdemeanor. Valencia Lane stated that solicitation was illegal.

Senator Pinsoneault stated that he would like to change the charges to become a felony.

Senator Beck asked what were the general rules dealing with the case mentioned in earlier testimony. He asked if the lawyer would lose his license to practice his profession? Senator Pinsoneault stated that he "might" lose his license to practice his profession. He added that the particular lawyer in point did lose his license as he plead guilty.

Senator Beck asked if anything would have been gained if he had gone to prison.

Senator Pinsoneault replied that if the person was placed in prison he would never have done it to being with.

Senator Yellowtail stated that he agreed that perhaps it should be left up to the professional licensing organization to oversee the doctors or lawyers. He didn't feel that SB 145 should go to the extent of a felony.

ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date Jan. 31, 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS			
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

January 31, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration SB 145 (first reading copy -- white), respectfully report that SB 145 be amended and as so amended do pass:

1. Title, line 7.
Following: "SUPPORT"
Insert: "OR CHILD SUPPORT-RELATED MAINTENANCE"

2. Page 2, line 5.
Following: "Veterans'"
Strike: "benefits"
Following: "and"
Strike: remainder of line 5 through line 6

3. Page 2, line 7.
Following: "legislation"
Insert: "benefits based upon remuneration for employment, as defined in 42 U.S.C. 662(f),"

4. Page 2, line 10.
Following: "a"
Insert: "spouse or"

5. Page 2, line 11.
Following: line 10
Insert: "spouse or"

6. Page 2, line 12.
Following: "owed"
Insert: "or owing and the judgment debtor is the parent of the child"

AND AS AMENDED DO PASS

Signed: _____
Bruce D. Crippen, Chairman

2/1/89
9:24 a.m.

SENATE 131

SENATE JUDICIARY
EXHIBIT NO. 6
DATE 1-31-89
BILL NO. SB 145

Amendments to Senate Bill No. 145
First Reading Copy (WHITE)

Requested by Senator Mazurek
For the Committee on Judiciary

Prepared by Valencia Lane
January 30, 1989

1. Title, line 7.
Following: "SUPPORT"
Insert: "OR CHILD SUPPORT-RELATED MAINTENANCE"

2. Page 2, line 5.
Following: "Veterans'"
Strike: "benefits"
Following: "and"
Strike: remainder of line 5 through line 6

3. Page 2, line 7.
Following: "legislation"
Insert: "benefits based upon remuneration for employment, as defined in 42 U.S.C. 662(f),"

SENATE JUDICIARY
EXHIBIT NO. 7
DATE 1-31-89
BILL NO. SB 145

Amendments to Senate Bill No. 145
First Reading Copy (WHITE)

Requested by Senator Eck
(at the request of Judge Michael Keedy)
For the Committee on Judiciary

Prepared by Valencia Lane
January 30, 1989

1. Page 2, line 10.
Following: "a"
Insert: "spouse or"

2. Page 2, line 11.
Following: line 10
Insert: "spouse or"

3. Page 2, line 12.
Following: "owed"
Insert: "or owing and the judgment debtor is the parent of the child"

DATE 1-31-84
BILL NO. SB 145

BILL NO. 145

INTRODUCED BY Eck Spaeth

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A JUDGMENT DEBTOR IS NOT ENTITLED TO EXEMPT FROM EXECUTION VETERANS' OR SOCIAL SECURITY BENEFITS IF THE DEBT FOR WHICH EXECUTION IS LEVIED IS FOR CHILD SUPPORT OR CHILD SUPPORT-RELATED MAINTENANCE; AND AMENDING SECTION 25-13-608, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 25-13-608, MCA, is amended to read:

"25-13-608. Property exempt without limitation -- exceptions. (1) A judgment debtor is entitled to exemption from execution of the following:

~~(1)~~(a) professionally prescribed health aids for the judgment debtor or a dependent of the judgment debtor;

~~(2)~~(b) benefits the judgment debtor has received or is entitled to receive under federal social security or local public assistance legislation, except as provided in subsection (2);

~~(3)~~(c) veterans' benefits, except as provided in subsection (2);

~~(4)~~(d) disability or illness benefits;

~~(5)~~(e) benefits paid or payable for medical, surgical, or hospital care to the extent they are used or will be used to pay for the care;

~~(6)~~(f) maintenance and child support; and

~~(7)~~(g) a burial plot for the judgment debtor and his family.

(2) Veterans' ~~benefits~~ and ~~benefits the judgment debtor has received or is entitled to receive under federal~~ social security legislation benefits based upon remuneration for employment are not exempt from execution if the debt for which execution is levied is for: as defined in 42 U.S.C. 662(f)

(a) child support; or

(b) maintenance to be paid to a spouse or former spouse if the former spouse is the custodial parent of a child for whom child support is owed."

NEW SECTION. **Section 2.** Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

-End-

INTRODUCED BILL
SB 145

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 1-31-89 Bill No. 145 Time 3

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK	✓	
SEN. BROWN	✓	
SEN. [illegible]	✓	
SEN. HARP	✓	
SEN. JENKINS	✓	
SEN. MAZUREK	✓	
SEN PINSONEAULT	✓	
SEN.YELLOWTAIL	✓	
SEN. CRIPPEN	✓	
	UNAN	

Rosemary Jacoby
Secretary

Sen. Bruce Crippen
Chairman

Motion: DPA - Halligan

SF-3 (Rev. 1987)

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 1-31-89 ~~Senate~~ Bill No. 145 Time 4

NAME	YES	NO
SEN. BISHOP		✓
SEN. BECK	✓	
SEN. BROWN		✓
SEN. HALLIGAN		✓
SEN. HARP		✓
SEN. JENKINS		✓
SEN. MAZUREK	✓	
SEN PINSONEAULT		✓
SEN. YELLOWTAIL	✓	
SEN. CRIPPEN	✓	
	4	to 6

Rosemary Jacoby
Secretary

Sen. Bruce Crippen
Chairman

Motion: Yellowtail substitute motion (see minutes) - Failed

SP-3 (Rev. 1987)

Rep. Strizich moved to amend the statement of intent into the bill. Rep. Wyatt seconded the motion.

Rep. Daily moved to TABLE SB 42. Motion FAILED with Rep.'s Daily and Eudaily voting Aye.

Recommendation and Vote: Rep. Brooke moved SB 42 BE CONCURRED IN AS AMENDED, motion seconded by Rep. McDonough. Question was called for on the motion and CARRIED with a unanimous vote.

HEARING ON SENATE BILL 145

Presentation and Opening Statement by Sponsor:

Sen. Eck stated that SB 145 makes it clear that veteran's social security legislation benefits based upon remuneration for employment are not exempt from execution if the debt for which execution is levied for child support. You cannot withhold child support money from a check from the veteran's administration of from social security. However, those can be considered in making a judgment for an award. This just clarifies that it is possible to go after those monies. In speaking to veteran's groups, they have no problem with this bill.

Testifying Proponents and Who They Represent:

Brenda Nordlund, Montana Womens Lobby
George Poston, Disabled Veterans
John DenHerder, Montana Disabled Veterans

Proponent Testimony:

Brenda Nordlund told the committee that the Montana Womens Lobby believes that to the extent that federal law allows such execution or garnishment of veterans or social security benefits, that this bill should be supported. That class of child support obligers should be equally responsible to support those children as those who are not receiving such benefits.

George Poston said when he was assured that disabled veterans would be exempt under the U.S. Codes, the disabled veterans turned from opponent to proponent. He stated they are now in favor of SB 145 as it is written.

John DenHerder said he endorses paying child support debts.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: No questions were asked.

Closing by Sponsor: Sen. Eck asked the committee to Concur in SB 145.

DISPOSITION OF SENATE BILL 145

Motion: Rep. Wyatt moved SB 145 BE CONCURRED IN, motion seconded by Rep. Brooke.

Discussion: Rep. Boharski stated that in a situation where a man gets married and has a ready made family and later gets divorced, those children should be his responsibility only if he adopts them.

Rep. Stickney commented that the amount of $250 was mentioned and questioned if that is set in the AFDC cases. Sen. Eck replied that that figure was in regard to SB 42 and was just an example to illustrate that there is a cost involved with children.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: The motion was voted upon and CARRIED with all in favor.

ADJOURNMENT

Adjournment At: 9:10 a.m.

REP. DAVE BROWN, Chairman

DB/je

5608.MIN

DAILY ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date March 10, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH			X
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN			X

STANDING COMMITTEE REPORT

March 10, 1989

Mr. Speaker: We, the committee on Judiciary report that SENATE BILL 145 (third reading copy -- blue) be concurred in .

Signed: _____
Kelly Addy, Vice-Chairman

[REP. McDONOUGH WILL CARRY THIS BILL ON THE HOUSE FLOOR]

VISITORS' REGISTER

Judiciary COMMITTEE

BILL NO. 145 DATE March 10

SPONSOR Eck

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Brenda Nordlund	MT Women's Lobby	X	
George Foster	United Veterans Com. of MT	X	
John Drenderen	Dept of MT DHY	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.